

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

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Robin Sims,)

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Plaintiff,)

v.) **CASE No: 5:10-CV-03326-IPJ**

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LVNV Funding, LLC)

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)

Defendant.)

ANSWER

COMES NOW the Defendant, LVNV Funding, LLC., ("LVNV") and Answers the Complaint in this matter as follows:

JURISDICTION

1. Admitted.
2. The Defendant denies any violation of the FDCPA and demands strict proof thereof.
3. Venue is admitted on information and belief.

JURISDICTION

4. Defendant is without sufficient information to admit or deny the averments within Paragraph 4 of the Complaint. To the extent an answer is required, defendant denies the material allegations contained therein.

5. The Defendant admits it is a foreign company that at times engages in debt collection.

FACTUAL ALLEGATIONS

6. The Defendant admits the contents of its pleadings in the Circuit Court of Madison County.

7. The Defendant admits the Plaintiff was served. The rest of this averment is denied.

8. Defendant admits the Plaintiff obtained legal counsel and filed an Answer dated April 19, 2010. Defendant asserts the Plaintiff's Answer is the best evidence of its actual contents.

9. Defendant admits the Plaintiff filed an Answer dated April 19, 2010. Defendant asserts that Plaintiff's Answer and Affidavit is the best evidence of its actual contents.

10. Admitted.

11. Denied.

12. Denied.

13. Denied.

TRIAL BY JURY

14. This averment does not require a response.

COUNT I – VIOLATIONS OF FDCPA

15. Defendant incorporates by reference all the above paragraphs as if fully stated therein.

16. Denied.

17. Denied.

PRAAYER FOR RELIEF

1. Defendant denies the Plaintiff is entitled to an award for any and all damages asserted against it.

AFFIRMATIVE DEFENSES

1. The Defendant pleads the general issue.
2. The Defendant pleads not guilty.
3. The Defendant pleads the complaint fails to state a claim or cause of action upon which relief can be granted.
4. To avoid waiver, the Defendant pleads the applicable statute of limitations.
5. The Defendant denies the Plaintiff has suffered any legally recognizable damages as a result of any act, error, or omission of this Defendant.
6. The Defendant denies the breach of any duty between itself and the Plaintiff.
7. The Defendant avers it acted at all times in good faith reliance on the information known to it.
8. The Defendant pleads the lack of any causal relationship between its actions and/or omissions and the damages claimed by the Plaintiff.
9. To avoid waiver, Defendant pleads all defenses per the FDCPA, including as applicable, the bona fide error defense.

10. The Defendant pleads it took no action to cause intentional injury to the Plaintiff and at all times acted in good faith and without malice, knowledge of wrongdoing, or willfulness.

11. Because this matter is still under investigation and to avoid waiver, the Defendant asserts the following defenses: 1) improper venue, 2) insufficient process, 3) insufficient service of process, and 4) failure to join a necessary or indispensable party.

12. The Defendant pleads the Plaintiff's actions constitute ratification.

13. The Defendant reserves the right to add additional affirmative defenses as discovery continues.

Respectfully Submitted,

/s/ Neal D. Moore, III
Neal D. Moore, III
*Attorney for Defendant,
LVNV Funding, LLC*

OF COUNSEL:

FERGUSON, FROST & DODSON, LLP
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CERTIFICATE OF SERVICE

This is to certify that on this the 21st day of December, 2010, a copy of the foregoing document has been served upon counsel for all parties to this proceeding via e-file:

Ronald C. Sykstus, Esq.
225 Pratt Avenue
Huntsville, Alabama 35801

/s/ Neal D. Moore, III
OF COUNSEL